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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,032	07/24/2003	William Lin	SII012	3355
25271	7590	03/24/2005	EXAMINER	
GALLAGHER & LATHROP, A PROFESSIONAL CORPORATION 601 CALIFORNIA ST SUITE 1111 SAN FRANCISCO, CA 94108			NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/628,032		LIN, WILLIAM	
	Examiner		Art Unit	
	Tam Nguyen		3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 4, 11 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 3, line 3, delete "base flame" and insert --base frame--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7-9, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 2005/0009677 A1) in view of Lin (US 2004/0087421 A1).

2. As to claims 1-3, 5, 7-9, 14 and 16, Yang discloses a device for aerobic exercise comprising a base frame (2) having a curved planar top surface, elastic pull cords (3), a resilient bladder (4) having a slightly convex top wall portion (41), a bottom wall (A), first and second rim middle portions (B) having projections (123), a surrounding flange (C) extending downwardly from the rim and disposed to surround the base frame and fasteners (6) to secure the flange to the base frame wherein the height of the bladder is shorter than the width of the bladder (see Fig. 3 below). Yang does not disclose that the bladder includes spiral reinforcing ribs or that the top wall portion has a greater rigidity than the middle portion and less rigidity than the bottom wall portion. Lin discloses a bladder having reinforcing spiral ribs and another bladder having projections that are concentrated near the top wall portion of the bladder (see Figs. 2 & 9 respectively). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add spiral ribs to Yang's resilient bladder to provide enhanced traction for a user to stand thereon and to place massage projections in any of an

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array of configurations including having them concentrated near the top wall to provide greater massage effects to the user. The concentration of the massage protuberances at the top wall portion would inherently make the top wall portion more rigid than the middle portion but less than the bottom portion (D) which is visually thicker to provide a strong support for the flange which surrounds the base.

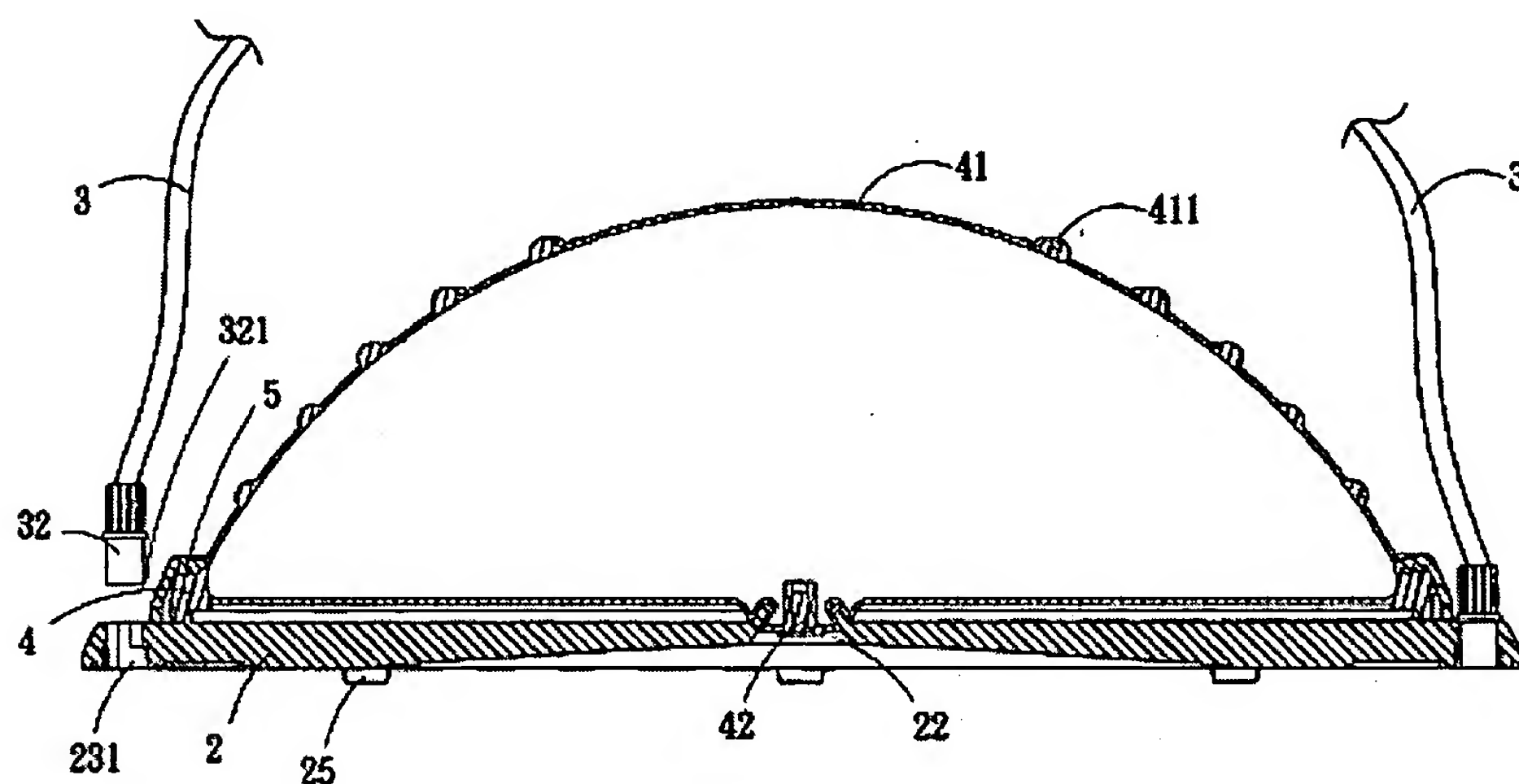


Fig. 3

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 2005/0009677 A1) in view of Lin (US 2004/0087421 A1) and in further view of Hobson (US 2004/0229 738 A1).

3. As to claim 6, Yang and Lin disclose a modified exercise device as described above. Yang does not disclose that the bottom wall of the bladder is generally rectangular in shape with rounded corners and the bladder's maximum height is less than the minimum width. Hobson discloses a similar exercise device having a rectangular bladder as substantially claimed (see Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to make the bladder into any of an array of shapes since a change in

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the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 2005/0009677 A1) in view of Lin (US 2004/0087421 A1).

4. As to claim 10, Yang and Lin disclose a modified exercise device as described above (see discussion of claim 8). Yang does not disclose hooks for securing the elastic pull cords to the base frame but rather insertion holes (231) (see Fig. 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of connection means to couple the pull cords to the base frame including hooks since they are functionally equivalent to the insertion holes in providing a secure coupling means.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 2005/0009677 A1) in view of Lin (US 2004/0087421 A1).

5. As to claim 12, Yang and Lin disclose a modified exercise device as described above (see discussion of claim 1). Yang does not disclose that the base frame includes anti-slip pads on the bottom thereof. Examiner takes Official Notice that the prior art includes similar exercise devices having anti-slip pads on their respective bottom surfaces. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add anti-slip pads to the bottom surface of Yang's exercise device to provide greater stability during exercise.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 2005/0009677 A1) in view of Lin (US 2004/0087421 A1) and in further view of Chu (US 2004/0220030 A1).

6. As to claim 15, Yang and Lin disclose a modified exercise device as described above (see discussion of claim 1). Yang does not disclose that the top surface of the base frame is slightly convex. Chu discloses a similar exercise device having a bladder that is coupled to a convex base frame (see Fig. 15). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to change the shape of the top of Yang's base frame's since a change in

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the shape of a prior art device is a design consideration within the skill of the art, In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) and a convex top surface would provide greater support to the bladder during exercise.

Allowable Subject Matter

7. Claims 4, 11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

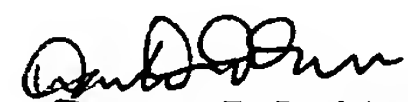
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Strong et al. '587, Lin '726, and Hsu '676 disclose similar exercise devices having bladders coupled to base frames.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F, 9-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 18, 2005


Danton D. DeMille
Primary Examiner